DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 911172-2021]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final notice of initial specification of groundfish for 1992; notice of fishery closure; and request for comment.

SUMMARY: NMFS announces final specifications of total allowable catches (TACs) and initial apportionments for each category of groundfish in the Bering Sea and Aleutian Islands (BSAI) area during the 1992 fishing year and associated management measures. This action is necessary to establish harvest limits for groundfish during the 1992 fishing year and associated management

measures. The intended effect of this action is the conservation and management of groundfish resources in the BSAI area.

DATES: Effective at 0001 Alaska local time (A.l.t.) on January 1, 1992, through 2400 A.l.t., on December 31, 1992, or until changed by subsequent notice in the Federal Register.

ADDRESSES: Comments on directed fishing closures should be sent to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668. The final Environmental Assessment prepared for the 1992 TAC specifications may be obtained from the same address, or by calling 907-586-7230. The final Stock Assessment and Fishery Evaluation (SAFE) report may be requested from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone 907-271-2809.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fisheries Management Biologist, Alaska Region, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: Groundfish fisheries in the BSAI area are governed by Federal regulations (50 CFR 611.93 and 675) that implement the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by the Secretary of Commerce (Secretary) under the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The FMP and implementing regulations require the Secretary, after consultation with the Council, to specify annually the TAC, initial domestic annual harvest (DAH), and initial total allowable level of foreign fishing (TALFF) for each target species and the "other species" category for the succeeding fishing year (§ 675.20(a)(7)). The sum of the species' TACs must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (§ 675.20(a)(2)). For 1992, the sum of TACs is equal to 1,999,855 mt, as indicated in Table 1.

TABLE 1.—OVERFISHING LEVELS, FINAL 1992 ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND ITAC APPORTIONMENTS OF GROUNDFISH IN THE BERING SEA (BS) AND ALEUTIAN ISLANDS (AI) MANAGEMENT AREA [1, 2]

Species and area	Overfishing level	ABC	TAC	ITAC=DAP [3, 4]
Pollock:				
BS [5]	1,770,000	1,490,000	1,300,000	1,105,000
AI	62,400	51,600	51,600	43,860
BD [6]	25,000	25,000	1,000	850
Pacific cod	188,000	182,000	182,000	154,700
Yellowfin sole	452,000	372,000	235,000	199,750
Greenland turbot	34,600	7,000	7,000	5,950
Arrowtooth flounder	114,000	82,300	10,000	8,500
Rock sole	260,800	260,800	40,000	34,000
Other flatfish	289,000	199,600	79,000	67,150
Sablefish:				
BS	1,840	1,400	1,400	1,190
AI	4,030	3,000	3,000	2,550
Pacific ocean perch:				
BS	3,540	3,540	3,540	3,009
AI	11,700	11,700	11,700	9,945
Other red rockfish [7]—BS	1,400	1,400	1,400	1,190
Sharpchin/Northern—AI	5,670	5,670	5,670	4,820
Shortraker/rougheye—AI	1,220	1,220	1,220	1,037
Other rockfish [8]:				
BS	400	400	400	340
AI	925	925	925	786
Atka mackerel	435,000	43,000	43,000	36,550
Squid	3,600	3,600	2,000	1,700
Other species [9]	27,200	27,200	20,000	17,000
Total	3,692,325	2,773,355	1,999,855	1,699,877

[1] Amounts are in metric tons: apply to entire Bering Sea (BS) and Aleutian Islands (AI) area unless otherwise specified.
[2] Zero amounts of groundfish are specified for Joint Venture Processing (JVP) and Total Allowable Level of Foreign Fishing (TALFF).
[3] Initial TAC (ITAC)=0.85 of TAC; initial reserve=TAC−ITAC=299,978.
[4] DAP=domestic annual processing=ITAC.
[5] Amounts of pollock ITAC specified for the "A" and "B" seasons are 442,000 mt and 663,000 mt, respectively.
[6] Bogoslof District (BD) subarea proposed under Amendment 17 to the FMP.
[7] "Other red rockfish" includes shortraker, rougheye, northern and sharpchin.
[8] "Other rockfish" includes *Sebastes* and *Sebastolobus* species except for Pacific Ocean perch and the "other red rockfish" species.
[9] "Other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

A notice specifying proposed initial TAC, reserve, DAH, and TALFF amounts for the 1992 fishing year was published on November 20, 1991 (56 FR 58531). Comments were invited through December 16, 1991. No written comments were received. In addition, oral comments were heard, and public consultation with the Council occurred, during the Council meeting in Anchorage, Alaska, on December 3-9, 1991. Council recommendations and biological and economic data that were available at the Council's December meeting were considered in implementing these final 1992 specifications.

The specified TACs for each species are based on the best available biological and socioeconomic information. The Council, its Advisory Panel (AP), and its Scientific and Statistical Committee (SSC), at their September and December 1991 meetings, reviewed current biological information about condition of groundfish stocks in the BSAI area. This information was compiled by the Council's BSAI groundfish Plan Team and presented in the SAFE report for the BSAI groundfish fisheries in the 1992 fishing year. The Plan Team annually produces such a document as the first step in the process of specifying TACs. The SAFE report contains a review of the latest scientific analyses and estimates of each species'

biomass and other biological parameters. From these data and analyses, the Plan Team estimates an acceptable biological catch (ABC) for each species category.

A summary of preliminary ABCs for each species for 1992 and other biological data from the September 1991 draft SAFE report were provided in the notice of proposed 1992 specifications (56 FR 58531; November 20, 1991). The Plan Team's recommended ABCs were reviewed by the SSC, AP, and Council at their September 1991 meetings. Based on the SSC's comments on technical methods, and new biological data not available in September, the Plan Team revised its ABC recommendations in the final SAFE report dated November 1991. The revised ABC recommendations were again reviewed by the SSC, AP, and Council at their December 1991, meetings. The SSC endorsed most of the Plan Team's recommendations for 1992 ABCs set forth in the final SAFE report. The SSC did recommend revisions to ABC amounts calculated for Aleutian Basin pollock, Pacific ocean perch, and Atka mackerel. A brief discussion of the SSC's revisions to the ABCs recommended by Plan Team follows:

Aleutian Basin (Bogoslof) Pollock

The SSC recommended that the projected estimate of 1992 exploitable biomass of Aleutian Basin pollock be based on a natural mortality rate (M) of .2, rather than .3 used by the Plan Team, for an increase in 1992 exploitable biomass from .444 million mt to .491 million mt. The SSC also recommended a more conservative exploitation rate of .25 times (M), or .05, compared to the Plan Team's recommended exploitation rate of .24. Using the SSC's exploitation rate against the revised estimate of exploitable biomass, the SSC's calculated recommendation for 1992 ABC is 25,000 mt.

Pacific Ocean Perch

The SSC recommended a more conservative exploitation rate for Pacific ocean perch relative to the rate used by the Plan Team. The SSC recommended that, as for other rockfish groups, an exploitation rate equal to natural mortality (M = 0.05) be used. Applying this rate to the current estimates of exploitable biomass in the Bering Sea and Aleutian Islands (70,800 mt and 234,000 mt) results in the SSC's recommended ABCs of 3,540 mt and 11,700 mt, respectively.

Atka Mackerel

Based on 1991 survey data, the SSC supports the Plan Team's procedure used to calculate an estimated 1992 ABC of 270,000 mt. This amount reflects an 11-fold increase of the ABC calculated for 1991 (24,000 mt). The SSC noted that the 1992 ABC calculated by the Plan Team is based on limited data. The SSC also heard testimony from NMFS that an abrupt increase in catch of Atka mackerel of the magnitude implied by the new ABC estimate would have uncertain effects on northern fur seals or other marine mammals, which feed heavily on Atka mackerel as they move through the Aleutian passes. In consideration of these concerns, the SSC recommended phasing in the Plan Team's estimate of ABC over a 6-year period and increasing the exploitation rate from M/6 in 1992 to M in 1997. Given this exploitation strategy, the SSC's recommended ABC for 1992 is 43,000 mt (.30/6)(870,000 mt exploitable biomass).

The Council adopted the SSC's recommendations for 1992 ABCs. The ABCs reflect harvest amounts that would not cause overfishing as defined in the FMP. The calculated levels of overfishing for each species category and recommended ABCs adopted by the Council are listed in Table 1.

The Council developed its TAC recommendations based on the final ABCs as adjusted for other biological and socioeconomic considerations. Each of the Council's recommended TACs for 1992 is equal to or less than the final ABC for each species category. Therefore, NMFS finds that the recommended TACs are consistent with the biological condition of groundfish stocks. The Council also recommended division of certain TACs between seasons and gear types, as described below.

Apportionment of TAC

As required by §§ 675.20(a)(3) and 675.20(a)(7)(i), each species TAC initially is reduced by 15 percent. The sum of these 15 percent amounts is the reserve. The reserve is not designated by species or species group, and any amount of the reserve may be reapportioned to a target species or the "other species" category during the year, providing that such reapportionments do not result in overfishing.

The initial TAC (ITAC) for each target species and the "other species" category at the beginning of the year, which is equal to 85 percent of TAC, is then apportioned between DAH and TALFF. Each DAH amount is further apportioned between two categories of U.S. fishing vessels. The domestic annual processing (DAP) category includes U.S. vessels that process catch on board or deliver it to U.S. fish processors. The joint venture processing (JVP) category includes U.S. fishing vessels working in joint ventures with foreign processing vessels authorized to receive catches in the exclusive economic zone.

In consultation with the Council, the initial amounts of DAP and JVP are determined by the Director, Alaska Region, NMFS (Regional Director). Consistent with the final notice of 1991 initial specifications, the Council recommended that 1992 DAP specifications be set equal to TAC and that zero amounts of groundfish be allocated to JVP and TALFF. In making this recommendation, the Council considered the continued growth in DAP harvesting and processing capacity and anticipates that 1992 DAP operations will harvest the full TAC specified for each BSAI groundfish species category.

The final TACs, ITACs, and initial apportionments of groundfish in the BSAI area for 1992 are given in Table 1 of this notice.

Regulations under § 675.20(a)(7)(i) require one-fourth of each proposed ITAC and the proposed first seasonal allowance of pollock (discussed below) be in effect at the start of a fishing year on an interim basis and remain in effect until superseded by a final **Federal Register** notice of initial specifications. Hence, the groundfish harvest specifications in Table 1 of this notice supersede the interim 1992 specifications published in Table 1 of the notice of proposed specifications (56 FR 58531; November 20, 1991).

Seasonal Allowances of Pollock TAC

Under § 675.20(a)(2)(ii), the TAC of pollock for each subarea of the BSAI area is allocated between two seasons (i.e. the roe season, January 1 through April 15, and the non-roe season, June 1 through December 31). Furthermore, the division of pollock TAC into seasonal allowances occurs after subtraction of reserves as provided under § 675.20(a)(3).

When specifying seasonal allowances of the pollock TAC, the Council considered the following nine factors listed in the FMP:

1. Estimated monthly pollock catch and effort in prior years;

2. Expected changes in harvesting and processing capacity and associated pollock catch;

3. Current estimates of, and expected changes in, pollock biomass and stock conditions; conditions of marine mammal stocks, and biomass and stock conditions of species taken as bycatch in directed pollock fisheries;

4. Potential impacts of expected seasonal fishing for pollock on pollock

stocks, marine mammals, and stocks and species taken as bycatch in directed pollock fisheries;

5. The need to obtain fishery data during all or part of the fishing year;

6. Effects on operating costs and gross revenues;

7. The need to spread fishing effort over the year, minimize gear conflicts, and allow participation by various elements of the groundfish fleet and other fisheries;

8. Potential allocative effects among users and indirect effects on coastal communities; and

9. Other biological and socioeconomic information that affects the consistency of seasonal pollock harvests with the goals and objectives of the FMP.

Based on the above criteria, the Council recommended that the seasonal allowances of the pollock ITAC specified for the Bering Sea subarea be set at the same relative levels as in 1991, or 40 percent of the ITAC during the roe season (442,000 mt) and 60 percent during the non-roe season (663,000 mt). As in 1991, the Council also recommended that the entire pollock ITAC specified for the Aleutian Islands subarea (43,860 mt) be made available at the beginning of the fishing year.

TABLE 2.—ALLOCATION OF POLLOCK TAC (MT) BY SEASON

Subarea	TAC [1]	ITAC [2]	Roe season [3]	Nonroe season [4]
Bering Sea	1,300,000	1,105,000	442,000	663,000
Aleutian Islands	51,600	43,860	43,860	Remainder.
Bogoslof District [5]	1,000	850	850	Remainder.

[1] TAC = total allowable catch.
[2] Initial TAC (ITAC) = 0.85 of TAC; 0.15 of TAC is apportioned to reserve.
[3] January 1 through April 15.
[4] June 1 through December 31.
[5] Authorized under inseason adjustment to protect Bogoslof District pollock until the effective date of Secretarial action on Amendment 17 to the FMP.

The Council has adopted Amendment 17 to the FMP that would establish the Bogoslof District as a third subarea for purposes of pollock stock management. Pending Secretarial approval or disapproval of Amendment 17, the Council recommended that directed fishing for pollock in the Bogoslof District be prohibited and that a 1,000 mt pollock TAC be specified for the Bogoslof District for bycatch purposes only. As such, seasonal allowances of the Bogoslof District pollock TAC would serve no purpose. An inseason adjustment has been implemented to prohibit directed fishing for pollock in the Bogoslof District (57 FR 2688; January 23, 1992) until Secretarial review of Amendment 17 is completed.

In reviewing the Council's recommended seasonal allowance of the pollock ITAC in the Bering Sea and Aleutian Islands management areas, NMFS considered how the recommended allowances address the factors listed above and mitigate potential problems associated with the pollock roe fishery.

In the Bering Sea subarea, the recommended roe season allowance of the pollock ITAC will prevent an inappropriate or unintended allocation of the pollock TAC between seasons and among industry sectors by limiting the roe season harvest to 40 percent of the ITAC of pollock in the Bering Sea subarea. This recommendation is consistent with the proportion of the pollock ITAC that was actually harvested by DAH fisheries during the roe season, but without roe season constraints, during 1986–1990.

As the DAP fishing effort has grown, larger DAP pollock harvests have occurred earlier in the fishing year. Two reasons for larger harvests include (1) the high value of pollock roe relative to other pollock products, and (2) the common property nature of the pollock resource and an open access management regime that gives no incentive to delay harvesting. Hence, without a specific seasonal catch limit, the potential exists for a disproportionately large roe season harvest. In this event, those vessels and processors that have the capacity to catch and process roe-bearing pollock most rapidly would have a competitive advantage over those elements of the industry that conduct slower, more evenly paced operations.

NMFS finds that the seasonal allocation of the Bering Sea pollock ITAC prevents an inappropriate or unintended allocation of the pollock TAC between seasons and among industry sectors. Furthermore, the specific allowance of 442,000 mt and 663,000 mt between the roe and non-roe seasons, respectively, will provide a reasonable balance between roe and non-roe season harvests. The recommended roe season catch limit will allow production of valuable pollock products while preventing an excessively disproportionate harvest in the roe season.

NMFS also finds that the roe season catch limit may help to prevent adverse effects on the ecosystem and on future pollock productivity from intensive fishing mortality during the roe season. Although no clear evidence is available to demonstrate that intensive fishing during a compressed season will have significant negative impacts on the ecosystem, the actual effects of such fishing are uncertain. The complexity of the ecosystem can easily mask any statistical relationship between the abundance of pollock eggs and larvae, and the future abundance of various pollock predators (including the threatened Steller sea lion) and of harvestable stocks of pollock. Given this uncertainty, conservative limitation of the roe season pollock harvest to 442,000 mt is reasonable.

The Council made no recommendation to allocate pollock by season in the Aleutian Islands subarea. Therefore, the entire 43,860 mt of pollock ITAC specified for this subarea will be available for harvest during the roe season, and any amount unharvested on April 15 will be available for harvest during the non-roe season beginning June 1, subject to other harvesting limitations.

NMFS considered the Council's recommendation not to allocate seasonally the Aleutian Islands pollock TAC and whether the potential for concentrated fishing effort could temporarily disrupt foraging efficiency of Steller sea lions on pollock, an important prey species for these marine mammals. The possible adverse effect of concentrating fishing effort on foraging activity of sea lions has been addressed in the rule that implemented Amendment 20 to the BSAI FMP and Amendment 25 to the FMP for Groundfish of the Gulf of Alaska (57 FR 2683; January 23, 1992).

Under a separate rule published in the Federal Register on January 6, 1992 (57 FR 381), the 1992 groundfish trawl fisheries in the BSAI and Gulf of Alaska (GOA) were delayed until January 20, 1992 when sea lion protection measures authorized under Amendments 20 and 25 became effective. NMFS implemented the 1992 season delay to assure that when the groundfish trawl fisheries began, they would be prosecuted in a manner that minimized potential adverse effects of these operations on sea lion foraging activity in sensitive habitat areas. Sea lion protection measures implemented under Amendments 20 and 25 include closure of areas around specified sea lion rookeries to fishing with trawl gear, and spatial and temporal restrictions on pollock harvests in the Gulf of Alaska.

Available information indicates that actions taken to disperse the harvest of pollock in the Gulf of Alaska under Amendment 25 to the GOA FMP are not directly applicable to the Aleutian Islands subarea. This subarea is a unique biogeographic area, significantly different from the GOA, with a narrow continental shelf, rugged bottom topography, and swift currents in the passes between the islands. NMFS observer data indicate that in recent years, a significant portion of the Aleutian Islands pollock harvest has occurred within 10 nm of sea lion rookeries. Since 1988, between 28 and 96 percent of the annual pollock catch in the Aleutian Island subarea was harvested within these areas. NMFS observer data also indicate that most of the domestic harvest of other groundfish species, including Atka mackerel, Pacific cod, and rockfish, has also occurred within 10 nautical miles of sea lion rookery sites. In contrast, a lower percentage of the 1990 GOA groundfish harvest occurred within 10 nm of rookery sites.

The amount of groundfish harvested in the Aleutian Islands subarea within 10 nm of sea lion rookeries indicates that significant amounts of groundfish are available within these areas and that fishing operations could potentially compete with sea lions for available groundfish. In response to the concern that all trawl operations could have potentially adverse effects on Steller sea lion foraging efficiency in sensitive habitat areas in the Aleutian Islands subarea, as well as potentially adverse physical interactions with trawl gear in those areas, fishing with trawl gear was prohibited within either 10 or 20 nm around sea lion rookery sites in the Aleutian Islands subarea under regulations that implement Amendment 20.

These regulations, together with the assumed availability of groundfish within the closed areas around Steller sea lion rookery sites in the Aleutian Islands subarea, are expected to provide effective protection to Steller sea lions in the Aleutian Islands subarea. NMFS has determined that seasonal allocations of the Aleutian island pollock TAC would not be expected to provide additional protection for sea lions that would be meaningful. NMFS also has determined that the Council's recommendation not to implement seasonal allocations of the pollock ITAC in the Aleutian Islands subarea is consistent with Council objectives with respect to harvesting roe-bearing pollock.

With respect to the Council recommendation for seasonal allocations of the pollock ITAC in the Bering Sea subarea (Table 2), NMFS concurs with the nine findings considered by the Council as required by the FMP in setting seasonal apportionment of the pollock ITACs. The record of these considerations is summarized at Agenda D–2(c) for the December 1991 meeting of the Council and in appendix B of the SAFE report dated November 1991. By basing these findings on the biological and socioeconomic information contained in the final SAFE report dated November 1991, NMFS finds that the recommended seasonal allowances of pollock are based on, and consistent with, the types of information required by § 675.20(a)(2)(ii).

NMFS intends to further explore the desirability of spatially and temporally dispersing groundfish harvests in the Aleutian Islands subarea to further protect Steller sea lions. Any such action would be developed in consultation with the Council and, pending approval by the Secretary, implemented by regulatory amendment under authority of Amendment 20 to the FMP.

Apportionment of Pollock TAC to the Non-pelagic Trawl Gear Fishery

Regulations under § 675.24(c)(2) authorize the Secretary, in consultation with the Council, to limit the amount of pollock TAC that may be taken in the directed fishery for pollock using non-pelagic trawl gear. This authority is intended to reduce the amount of halibut and crab bycatch that occurs in non-pelagic trawl operations. Limitations on the amount of pollock taken in the non-pelagic trawl fishery were not implemented in 1991 because the amount of pollock taken with non-pelagic trawl gear and the associated bycatch of crab and halibut were sufficiently low as to eliminate the need for further restriction under separate regulatory action. Through September 29, 1991, the amount of pollock taken with non-pelagic trawl gear was less than 6 percent of the total pollock harvest. Relatively small harvest amounts of pollock with non-pelagic trawl gear are again anticipated in 1992. As such, the Council recommended that no regulatory action be taken to further restrict the amount of pollock TAC harvested with non-pelagic trawl gear in 1992.

NMFS concurs with the Council's recommendation that restrictions on the amount of pollock harvested with non-pelagic trawl gear are unnecessary to significantly reduce bycatch of prohibited species.

Sablefish Gear Allocation

Regulations at § 675.24(c)(1) require that sablefish TACs for the Bering Sea and Aleutian Islands subareas be divided between trawl and hook-and-line/pot gear fisheries. Gear allocations of TACs are specified in the following proportions:

Bering Sea subarea: Trawl gear—50 percent; hook-and-line/pot gear—50 percent, and

Aleutian Islands subarea: Trawl gear—25 percent; hook-and-line/pot gear—75 percent.

Based on the 1992 TAC specifications in Table 1, trawl gear and hook-and-line/pot allocations of sablefish in each subarea are equivalent to the TACs and ITACs listed in Table 3.

TABLE 3.—FINAL GEAR SHARES OF SABLEFISH TAC

Subarea	Gear	Percent of TAC	Share of TAC (mt)	Share of ITAC (mt) [1]
Bering Sea	Trawl	50	700	595
	Hook-and-line/pot gear	50	700	595

TABLE 3.—FINAL GEAR SHARES OF SABLEFISH TAC—Continued

Subarea	Gear	Percent of TAC	Share of TAC (mt)	Share of ITAC (mt) [1]
Aleutian Islands	Trawl	25	750	638
	Hook-and-line/pot gear	75	2,250	1,912

[1] Initial TAC (ITAC) = 0.85 of TAC, rounded to the nearest whole mt; 0.15 of TAC is apportioned to reserve. The sum of both ITAC gear shares in a subarea is equal to the ITAC for that subarea in Table 1.

Directed Fishing Closures

A principal consideration for the Council in developing its 1992 TAC recommendations was assuring that the sum of the species TACs did not exceed the maximum OY of two million mt. After consideration of the amounts of each species category TAC that is required for bycatch in other directed fisheries, the Council recommended that ABC amounts specified for Greenland turbot, "other rockfish," and the trawl allocation of sablefish TAC are not sufficient to support directed fisheries. As such, TAC amounts for these species were set equal to ABC, with Council intent that these amounts would be used for bycatch purposes only. The Council also recommended that the TAC specified for arrowtooth flounder be specified at a level that would support bycatch amounts of this species in other directed fisheries. Although the 1992 ABC calculated for arrowtooth flounder would support a larger TAC, arrowtooth flounder normally is retained only as a bycatch species, and significant target operations for this species do not yet exist.

Given the directed fishing standards for Greenland turbot, sablefish, and "other rockfish" under § 675.20(h), the Regional Director, Alaska Region, NMFS (Regional Director), has determined that the entire initial TACs for these species are needed to support incidental catch amounts in directed fisheries for other groundfish species. As such, the Regional Director concurs with the Council's recommendation that directed fishing for sablefish with trawl gear and directed fishing for Greenland turbot and "other rockfish" be prohibited to prevent the specified TACs from being exceeded. Attainment of the "other rockfish" TACs in the Bering Sea and Aleutian Islands are of special concern, because the specified TACs are set at the overfishing level. Attainment of these TACs would require the closure of all fisheries that catch incidental amounts of "other rockfish" and could result in the foregone harvest of significant amounts of other groundfish species.

The Regional Director also concurs with the Council's recommendation to prohibit directed fishing for arrowtooth flounder and that a specified ITAC of 8,500 mt is sufficient to support bycatch amounts of arrowtooth flounder caught incidental to other directed fishing operations. Under authority provided at § 675.20(a)(8), the Regional Director is prohibiting directed fishing for Greenland turbot, "other rockfish," and arrowtooth flounder, and for sablefish harvested with trawl gear in the Bering Sea and Aleutian Islands management areas effective January 29, 1992.

Allocation of Prohibited Species Catch (PSC) Limits

Crab, Halibut, and Herring

PSC limits of red king crab and *C. bairdi* Tanner crab in specific zones (50 CFR 675.2) of the Bering Sea subarea and for Pacific halibut throughout the BSAI area are specified under § 675.21(a). The PSC limits are:

—200,000 red king crabs applicable to Zone 1;
—One million *C. bairdi* Tanner crabs applicable to Zone 1;
—Three million *C. bairdi* Tanner crabs applicable to Zone 2;
—4,400 mt of Pacific halibut (primary PSC limit) applicable to Zones 1 and 2H; and
—5,333 mt of Pacific halibut (secondary PSC limit) applicable to the entire BSAI area.

The PSC limit of Pacific herring caught while conducting any trawl operation for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. Based on 1991 survey data, the projected 1992 Bering Sea-wide herring biomass is 95,649 mt, resulting in a 1992 herring PSC limit of 956 mt. Regulations under § 675.21(b) authorize the apportionment of each PSC limit into PSC allowances that are assigned to specified fishery categories. Existing regulations at § 675.21(b)(4) specify five DAP fishery categories for this purpose (midwater pollock, Greenland turbot, rock sole, yellowfin sole/other flatfish, and "other fisheries"). At its December 1991 meeting, the Council adopted the prohibited species allowances in Table 4 of this notice, based on the currently anticipated bycatch of crabs, halibut, and herring during the 1992 fishing year. The Council adopted the AP's recommendation to allocate zero amounts of prohibited species bycatch allowance to the Greenland turbot fishery category, which includes both the Greenland turbot and arrowtooth flounder trawl fisheries. The Council expressed its intent that specified TAC amounts for these two species be only available for bycatch purposes, and no directed fisheries for Greenland turbot or arrowtooth flounder should be allowed in 1992. As such, prohibited species bycatch allowances for the Greenland turbot category are not necessary.

TABLE 4.—FINAL 1992 PROHIBITED SPECIES CATCH ALLOWANCES

Fisheries	Zone 1	Zone 2	Zones 1+2H	BSAI-wide
Red king crab, number of animals:				
DAP flatfish	75,000			
DAP rocksole	85,000			
DAP turbot	0			
DAP other	40,000			
Total	200,000			

TABLE 4.—FINAL 1992 PROHIBITED SPECIES CATCH ALLOWANCES—Continued

Fisheries	Zone 1	Zone 2	Zones 1+2H	BSAI-wide
C. bairdi Tanner crab, number of animals:				
DAP flatfish	100,000	1,225,000		
DAP rocksole	700,000	300,000		
DAP turbot	0	0		
DAP other	200,000	1,475,000		
Total	1,000,000	3,000,000		
			Primary Halibut	Secondary Halibut
Pacific halibut, metric tons:				
DAP flatfish			743	901
DAP rocksole			660	800
DAP turbot			0	0
DAP other			2,997	3,632
Total			4,400	5,333
Pacific Herring, metric tons:				
Midwater pollock				573
DAP flatfish				134
DAP rocksole				0
DAP turbot				0
DAP other				249
Total				956

Remaining differences between the prohibited species bycatch allowances listed in Table 4 and those proposed (56 FR 58531; November 20, 1991) reflect differences between the proposed and final groundfish specifications in Table 1, changes in anticipated harvest of Pacific cod by trawl gear, and anticipated changes in fishery bycatch needs pending Secretarial approval of Amendment 19 to the FMP. This amendment was adopted by the Council at its December 1991 meeting, and would reduce the halibut PSC limit established for trawl gear from 5,333 mt to 5,033 mt and establish a separate halibut PSC mortality limit for non-trawl gear (750 mt). A regulatory amendment associated with Amendment 19 was also adopted by the Council that would revise the number of trawl fishery categories that are eligible to receive prohibited species bycatch allowances. Pending Secretarial approval, these changes to the management of prohibited species bycatch in the groundfish fisheries will be implemented under separate rulemaking that would supersede the PSC bycatch allowances specified in this notice. If approved and implemented in 1992, the bycatch of Pacific halibut by non-trawl fisheries and the bycatch of crab, halibut, and herring in the revised trawl fishery categories will be counted against the respective PSC allowances from the beginning of the 1992 fishing year.

Seasonal Apportionments of PSC Limits

Regulations at § 675.21(b)(2) authorize the Secretary, after consultation with the Council, to establish seasonal apportionments of prohibited species bycatch allowances among the fisheries to which bycatch has been apportioned. Under § 675.21(b)(2), the basis for any such apportionment must be based on the following types of information:

1. The seasonal distribution of prohibited species;

2. Seasonal distribution of target groundfish species relative to prohibited species distribution;

3. Expected prohibited species bycatch needs on a seasonal basis relevant to change in prohibited species biomass and expected catches of target groundfish species;

4. Expected variations in bycatch rates throughout the fishing year;

5. Expected changes in directed groundfish fishing seasons;

6. Expected start of fishing effort; and

7. Economic effects of establishing seasonal prohibited species apportionments on segments of the target groundfish industry.

At its December 1991 meeting, the Council recommended seasonal apportionments of each of the halibut bycatch allowances listed in Table 5. In making these recommendations, the Council adopted recommendations presented by its AP. The AP considered and balanced a variety of factors. In particular, it noted that bycatch allowances specified for 1991 resulted in premature closures of the Pacific cod and yellowfin sole trawl fisheries, an opportunity to harvest available groundfish was foregone.

TABLE 5.—FINAL SEASONAL ALLOCATION OF THE 1992 PACIFIC HALIBUT AND CRAB BYCATCH ALLOWANCES

Fishery	Percent	Seasonal bycatch allowance
Pacific Halibut		
DAP Flatfish:		
Jan. 01–Apr. 30	0	0
May 01–Aug. 02	50	451
Aug. 03–Dec. 31	50	450
DAP Rocksole:		
Jan. 01–Mar. 29	75	600
Mar. 30–Jun. 28	12.5	100
Jun. 29–Sep. 27	12.5	100
Sep. 28–Dec. 31	0	[1]
DAP Turbot:		
Jan. 01–Dec. 31	0	0
DAP "other fishery":		
Jan. 01–Mar. 29	49	1,774
Mar. 30–Jun. 28	27	995
Jun. 29–Sep. 27	24	863
Sep. 28–Dec. 31	0	[1]
Total Halibut		5,333
Red King Crab (number of crab)		
DAP "other fishery":		
Jan. 01–Mar. 29		19,600
Mar. 30–Jun. 28		5,100
Jun. 29–Sep. 27		15,300
Sep. 28–Dec. 31		[1]
Total		40,000
C. Bairdi Tanner Crab (number of crab)		
DAP "other fishery":		
Zones 1 and 2		
Jan. 01–Mar. 29	132,000	990,500
Mar. 30–Jun. 28	17,000	121,125
Jun. 29–Sep. 27	51,000	363,375
Sep. 28–Dec. 31	[1]	[1]
Total	200,000	1,475,000

[1] Remainder.

The Pacific cod fishery shares the Pacific halibut bycatch allowance allocated to the "other fishery," and is expected to continue to be important as

an early year target fishery due to the anticipated completion of the Bering Sea pollock roe fishery by mid-February and the delayed start of the flatfish fisheries until May 1 (§ 675.23(c)). Pacific cod is most vulnerable to trawl gear early in the year when the catch per unit of effort is highest and historical Pacific halibut bycatch rates are lowest. The AP conceded that the Pacific halibut bycatch apportionment could constrain the "other fishery" based on experience in 1990 and 1991. No quantitative estimate of this constraint can be made because resulting bycatch rates due to the vessel incentive program to reduce Pacific halibut bycatch in the Pacific cod trawl fishery are unknown. Regulations implementing this program (§ 675.26) became effective near the completion of the 1991 Pacific cod fishery, and the 1992 fishing year will be the first year that this fishery operates under the incentive program. The Secretary anticipates that prohibited species bycatch rates will be reduced in 1992 as the incentive program is implemented and enforced.

The Pacific cod trawl fishery could produce the largest economic return by having the opportunity to fish the resource early in the year. Consequently, the AP recommended that 76 percent of the Pacific halibut PSC allowance apportioned to the "other fishery" be made available in the first two quarters of 1992 to support the Pacific cod trawl fishery. The remainder of the Pacific halibut bycatch allowance is apportioned to the third and fourth quarters to support the rockfish fishery and directed fishery for pollock using non-pelagic trawl gear.

The AP also recommended that 75 percent of the Pacific halibut bycatch allowance apportioned to the rock sole fishery be allocated to the first quarter of 1992 when most of the rock sole TAC is harvested in the high-valued rock sole roe fishery. The remaining amounts of the rock sole halibut bycatch allowance are equally apportioned to the second and third quarter to support a small directed effort for rock sole outside the roe season.

As mentioned above, the yellowfin sole and "other flatfish" season is delayed until May 1 of each year to reduce high Pacific halibut and red king crab bycatch rates that occur earlier in the year (§ 675.23(c)). The Pacific halibut bycatch allowance apportioned to the yellowfin sole and "other flatfish" category is equally divided into two seasonal allocations: May 1–August 2, and August 3–December 31. The recommended allocation of the Pacific halibut bycatch allowance is intended to prevent an excessive bycatch of Pacific halibut in July and August when Pacific halibut become more vulnerable to shallow water fisheries and bycatch rates increase, thereby reducing the likelihood of a premature closure of the yellowfin sole fishery. The AP also recommended that the crab bycatch allowance apportioned to the "other fisheries" be seasonally allocated to ensure that amounts of crab bycatch allowance are available to support the non-roe pollock season in the Bering Sea (June 1–December 31).

The Council adopted the recommendations of the AP as an effective balance of the interests affected by the rock sole, yellowfin sole/other flatfish, and "other fisheries" prohibited species bycatch allowances.

The purpose of the seasonal apportionments of prohibited bycatch allowances is to assure some fishing opportunity for fisheries using bottom trawl gear in the second and third quarters of the year. In 1991, the bottom trawl fisheries for pollock and Pacific cod were closed in Zones 1 and 2H on May 3, and in the entire BSAI area on May 8. The fisheries were reopened during the first week of the third quarter of 1991 and then closed for the remainder of the year, resulting in a significant portion of the Pacific cod TAC remaining unharvested due to attainment of the halibut bycatch allowance specified for the "other fishery." Similarly, the BSAI was closed to fishing for yellowfin sole/other flatfish on October 15, when these fisheries attained their Pacific halibut bycatch allowance. The Council's recommended seasonal apportionments of the prohibited species bycatch allowances are intended to allow an increase amount of the groundfish OY to be harvested by providing for directed groundfish fisheries when catch per unit effort are high and corresponding prohibited species bycatch rates are relatively low.

In approving the Council's recommended seasonal apportionment of the Pacific halibut bycatch allowances to the rock sole, yellowfin sole/other flatfish, and "other fishery" categories, NMFS considered seven types of information specified at § 675.2(b)(2) as follows:

1. The biomass trends and distribution of Pacific halibut as summarized in appendix A of the SAFE report dated November 1991 and other scientific documents of the International Pacific Halibut Commission;

2. The seasonal distribution of the groundfish fisheries as described in the SAFE report dated November 1991 and other NMFS documents and the Council's recommendation that directed fisheries for Greenland turbot, arrowtooth flounder, "other rockfish," and sablefish with trawl gear be prohibited;

3. The expected Pacific halibut bycatch by each of the fishery categories that are eligible to receive prohibited species bycatch allowances based on historical bycatch rates presented in appendix C of the SAFE report dated November 1991;

4. The expected variations in bycatch rates throughout the year based on the same data referenced in item 3;

5. The establishment of roe and non-roe seasons for pollock in the Bering Sea; and the delay of directed fishing for flatfish species except rock sole until May 1;

6. The delay of the 1992 groundfish trawl fisheries until the effective date of sea lion protection measures (January 20, 1992); and

7. Resulting economic effects of seasonal apportionments of the prohibited species bycatch allowances are expected to be positive if more groundfish are harvested with non-pelagic trawl gear than otherwise would be possible without the seasonal apportionments. No data are available to quantify the marginal benefit of this action.

Groundfish PSC limits

No PSC limits for goundfish species are specified in this notice. Authority to annually specify PSC limits for groundfish species or species groups for which the TAC can be completely harvested by domestic fisheries is provided at § 675.20(a)(8). In practice, these PSC limits apply only to JVP or TALFF fisheries for species that have a zero JVP or TALFF apportionment. At this time, no groundfish are proposed to be allocated to either JVP or TALFF and specifications of groundfish PSC limits are unnecessary.

Classification

This action is authorized under 50 CFR 611.93(b) 675.20 and complies with Executive Order 12291.

NMFS prepared an environmental assessment on the 1992 TAC specifications, which concludes that no significant impact on the environment will result from their implementation.

Immediate effectiveness of the notice of directed fishing closures for Greenland turbot, "other rockfish," arrowtooth flounder, and sablefish allocated to trawl is necessary to prevent excessive harvests of these species. Without this action, specified TAC amounts will be prematurely

reached and retention of these species will become prohibited, which is to the disadvantage of U.S. fishermen to retain bycatch amounts of these species. Therefore, the Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay its effective date. As immediate effectiveness of this action is necessary to benefit fishermen who would otherwise forego harvestable amounts of groundfish, the 30-day delayed effectiveness is also waived. However, interested persons are invited to submit comments in writing to the Regional Director (see ADDRESSES) above for 15 days after the effective date of this notice.

Pursuant to the requirements of section 7 of the Endangered Species Act, NMFS has determined that the TAC specifications for the 1992 BSAI groundfish fishery are not likely to jeopardize the continued existence and recovery of any endangered or threatened species.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations.

50 CFR Part 675

Fisheries, Reporting and recordkeeping.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 29, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92-2536 Filed 1-29-92; 4:36 pm]

BILLING CODE 3510-22-M